

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2261 OF 2004

Shri Deepak Shivaji Vanzare. .. Petitioner
v/s.
The Standing Committee,
Solapur Municipal Corporation &
others. .. Respondents

Mr.S.G. Kudle for petitioner.

Mr.Vijay Killedar with Mr.Nitin Jamdar for
res.Nos.2.

Mr.C.R.Sonawane, AGP for res.No.3.

**CORAM : H.L. GOKHALE &
S.P. KUKDAY, JJ.**

DATE : 6th June 2005

P.C. :

1. Heard Mr.Kudle in support of this petition. Mr.Jamdar appears for respondent No.2 and Mr.Sonawane, AGP appears for respondent No.3.

2. The petitioner is a daily rated employee working under the Solapur Municipal Corporation. He was proceeded with a departmental enquiry for an allegation of taking a bribe of Rs.1,000/-. The Administration passed an order of termination. He filed an appeal to the Standing Committee and the Standing Committee of the Municipal Corporation allowed his appeal on 31st January 2003. Thereafter, the Administration sought a review of that decision before the Standing Committee. The

present petition has been filed to challenge this review by contending that there cannot be any such review under Section 56 of the Bombay Provincial Municipal Corporations Act, 1949 ("B.P.M.C. Act", for short).

3. The petition came up for consideration before a Division Bench on 25th March 2004 and the Division Bench passed an ad-interim order in terms of prayer clause (c), whereby further steps in pursuance of Subject No.1267 of Agenda No.48, which was to be discussed on 27th February 2004, were stayed.

4. A reply dated 4th May 2005 has been filed by one Shri Anil Vipat, Assistant Commissioner (Gen.), Solapur Municipal Corporation. Mr.Jamdar, learned Counsel appearing for respondent No.2, has filed a compilation of the documents of the proceedings before the Standing Committee and the correspondence between the Municipal Commissioner and the Standing Committee. The Standing Committee has, however, proceeded with the Review Application but it has maintained its earlier decision. It appears that the decision was taken when the stay order passed by the High Court was not served on the Standing Committee. In any case

the decision having come in favour of the petitioner, with regard to the grievance of the petitioner that the Standing Committee cannot review its earlier decision, it no longer survives.

5. It has, however, been pointed out in the reply that the Municipal Commissioner has subsequently moved the State Administration under Section 451 of the B.P.M.C. Act by pointing out that the decision is erroneous. Mr.Jamdar, learned Counsel appearing for respondent No.2, points out that the decision of the Standing Committee nowhere refers to the merits of the enquiry and as to why the Standing Committee was concluding that the earlier decision ought to be maintained.

6. Mr.Kudle, learned Counsel appearing for the petitioner, points out that this action under Section 451 of the B.P.M.C. Act is liable to be taken within one month and he relies upon sub-section (3) of Section 451 of the B.P.M.C. Act. Mr.Jamdar, learned Counsel appearing for respondent No.2, points out that, that is a period provided for taking a decision and not for initiating the proceedings.

7. In any case inasmuch as the present petition is filed being aggrieved by the action of the Standing Committee to review its earlier decision, the petition no longer survives once the review application has been decided in favour of the petitioner. In fact, he does not have any cause of action.

8. As far as the application filed by the Municipal Commissioner to the State Government is concerned, the State Government is expected to decide the same on its own merits after giving a notice to the petitioner. We expect the concerned Department of the State Government to decide the application within three months hereafter by giving reasons. We further add that in the event the decision arrived at is adverse to the petitioner, the same will not be acted upon for a period of six weeks after the same is served on the petitioner. The petition stands disposed of.

(H.L. GOKHALE, J.)

(S.P. KUKDAY, J.)